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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,170	10/18/2001	James M. Henderson		7805

7590 12/12/2002
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633 Chestnut Street
Chattanooga, TN 37450-1800

EXAMINER

NGUYEN, THUKHANH T

ART UNIT	PAPER NUMBER
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1722

DATE MAILED: 12/12/2002

3

Please find below and/or attached an Office communication concerning this application or proceeding.

19.3
12.3

Office Action Summary	Application No.	Applicant(s)	
	09/982,170	HENDERSON, JAMES M.	
	Examiner	Art Unit	
	Thu Khanh T. Nguyen	1722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: . |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 9-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claims 9-11 recites the limitation "the indexing brick or paver receiver plate" in line 2. There is insufficient antecedent basis for this limitation in the claim.

4. The term "may hold" in claim 11 is a relative term, which renders the claim indefinite. The term "may hold" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Suggest changing to "holds".

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ottman (4,153,404) in view of Smith (2,537,920).

Art Unit: 1722

Ottman discloses blocks forming apparatus comprising a front and rear cylinder (33, 43), a front and rear ram (30, 40), a feed chute (24), a charging chamber (48, 18), a mold chamber (18, Fig. 4), and a support frame (14, 16); wherein the feed chute is continuously charged (Figs. 1-4) and the charging chamber functions as a measuring and shaping device prior to the compressing of the rams (col. 3, 46-65); wherein the solid top of the rear ram functions as a shut off valve (26, 50; col. 2, lines 55-64); wherein the rear ram (40) and the front ram (30) and the supporting frames (14, 16) form a square cavity and compress the charging material in one axis, in both the positive and negative direction of the axis. Ottman, however, fails to disclose an indexing plate and a mixing means.

Smith discloses an apparatus for forming granular material into blocks, comprising an indexing plate (33) for receiving and transporting the blocks after they are formed in the molding cavity, and slice bars (29) for agitating the material to insure its free flow downwardly into the molding chambers (col. 2, lines 34). The apparatus further comprises a plurality of mold chambers (col. 2, lines 36-37; Fig. 4), thus, the indexing plate is capable of holding and transporting a plurality of formed blocks at the same time. The dimensions of the indexing plate as well as the distance between the front and rear ram are depended on the operating space and the size of the blocks.

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Ottman by providing an indexing plate and a mixing means as taught by Smith, because the indexing plate would support the blocks after being formed and transfer the blocks to other places for further handling and preparation, and the mixing means would mix and facilitate the movement of the material from the hopper to the molding chamber.

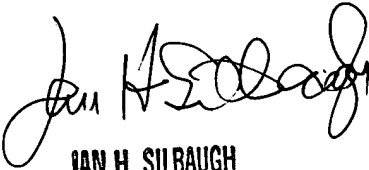
Art Unit: 1722

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Khanh T. Nguyen whose telephone number is 703-305-7167. The examiner can normally be reached on Monday-Thursday and on alternate Friday, 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jan H. Silbaugh can be reached on 703-308-3829. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

TN
December 9, 2002


JAN H. SILBAUGH
SUPERVISORY PATENT EXAMINER
ART UNIT ~~28~~ 1722
12/10/02